

**AMENDMENTS TO 37-65-102, BY ADDING A NEW SECTION 6
OFFERED BY THE AIA MONTANA
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ON 2/15/2007**

SECTION 50-60-101, SUBSECTION 14

50-60-101. Definitions. As used in parts 1 through 4 and 7 of this chapter, unless the context requires otherwise, the following definitions apply:

(14) "Public building" means a building or facility owned or operated by a governmental entity or a private sector building or facility that is open to members of the public.

37-65-101. Purpose. It is hereby declared, as a matter of legislative policy in the state of Montana, that the practice of architecture is a privilege granted by legislative authority and is not a natural right of individuals and that it is necessary, as a matter of such policy and in the interests of the health, safety, and welfare of the people of Montana, to provide laws covering the granting of that privilege and its subsequent use, control, and regulation for the purpose of protecting the public from the unprofessional, improper, unauthorized, and unqualified practice of architecture.

37-65-102. Definitions. Unless the context requires otherwise, in this chapter the following definitions apply:

(1) "Architect" means an individual technically and legally qualified to practice architecture and who is authorized under this chapter to practice architecture.

(2) "Board" means the board of architects provided for in 2-15-1761.

(3) "Building" means a structure intended primarily for human occupancy or use.

(4) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(5) "Practice of architecture" means any professional service or creative work requiring the application of advanced knowledge of architectural design, building construction, and standards and involving the constant exercise of discretion and judgment in those activities, in which the safeguarding of life, health, or property is concerned, as consultation, investigation, evaluation, planning, design, or inspection of construction for any public or private building.

(6) "Public building" means any building that the state or any political subdivision of the state maintains for the use of the public.

37-65-103. Exemptions. (1) Nothing contained in this chapter shall prevent draftsmen, students, clerks of work, superintendents, and other employees of those lawfully practicing as architects under the provisions of this chapter from acting under the instruction, control, or supervision of their employers or to prevent the employment of superintendents of the construction, enlargement, or structural alteration of buildings or any appurtenance thereto.

(2) Nothing contained in this chapter shall be construed to:

(a) apply to alterations to any building which do not involve changes affecting the structural safety thereof or the public health;

(b) prevent the preparation of details and shop drawings by persons other than architects for use in connection with the execution of their work; or

(c) prevent the preparation of drawings or details for fixtures, cabinetwork, furniture, or other interior appliances or equipment or for any work necessary to provide for their installation unless the same involves public health or safety.

(3) None of the acts enumerated in subsections (1) and (2) shall be interpreted or construed as the practice of architecture.

(4) Nothing in this chapter shall be construed to affect or prevent the following, provided that no words, letters, figures, or other device shall be used in such manner as to tend to convey the impression that the person rendering such service is an architect duly registered under this chapter:

(a) consultants, officers, and employees of the United States while engaged solely in the practice of architecture for said government;

(b) professional engineers from performing architectural services which are purely incidental to their engineering practice;

(c) any person from planning, designing, altering, repairing, supervising, or engaging in residential construction consisting of less than eight living units regardless of size or cost or farm buildings which are not intended for use or used as a public building;

(d) the planning, design, alteration, construction, repair, or supervision of construction

of a building by its owner if the building is not intended for use or used as a public building.

HISTORY OF THE CHANGE

For many years there has been a conflict between the definitions of "public building" as defined in the proposed amended section of the architect licensing law and the building code law. The conflict has caused much confusion and disputes as to when a licensed architect is required to prepare plans for a building. In the interest of public safety the amendment is proposed to the State architect's licensing law.

TALKING POINTS

1. The safety of the public is the concern of the statute change. The life-safety of building occupants requires professional input in the design of buildings for structural, fire, exiting, healthy air, energy conservation, heating, and lighting.
2. Conflict With the Current Building Code Statutes.
 - a. For many years there has been discussions and problems created by the definition of "public building" as contained in Section 37-65-102(6) {"means any building that the state or any political subdivision of the state maintains for the use of the public"} and 50-60-101(14) {"means a building or facility owned or operated by a governmental entity or a private sector building or facility that is open to members of the public."}
 - b. Section 37-65-102(5) defines the "practice of architecture" {"means any professional service or creative work requiring the application of advanced knowledge of architectural design, building construction, and standards and involving the constant exercise of discretion and judgment in those activities, in which the safeguarding of life, health, or property is concerned, as consultation, investigation, evaluation, planning, design, or inspection of construction for any public or private building."}
 - c. It is the intent of the statute change to make the "public building" definition clear and consistent in the licensing statutes and the building code statutes and ending the confusion.

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